

# OHCHR Call for contributions on artificial intelligence and creativity

## SAA submission to selected questions May 2025

The [Society of Audiovisual Authors](#) (SAA) is the umbrella association of European collective management organisations (CMOs) representing audiovisual authors. Its 33 members in 25 countries manage rights for over 174,000 film, television and multimedia European screenwriters and directors. The SAA supports audiovisual authors and promotes cultural diversity through policies that enable the dissemination of audiovisual authors' works to audiences. CMOs' role is to provide easy, legal access to these works and ensure authors are fairly paid to encourage further creativity for the benefit of society. Our contribution focuses on selected questions of common interest for the SAA community.

### 1. What are the main challenges posed by AI to human creativity (understood as encompassing artistic creativity but also all other types of creativity)

We consider that there needs to be a distinction between AI generated products and AI assisted works.

It is specifically in the case of AI generated products that AI represents a challenge to human creativity. This is so because AI feeds on pre-existing works, created by humans using their human creativity, to return content that is difficult to discern from a human-created work and thus competes with it. In turn, the human creators become less incentivised to give to the world their works, as the hours dedicated to their creations have little to no value in a market where works can be created in a couple of minutes just by prompting a couple of words. This chain of events clearly endangers the incentives for human creators to create more works, delivering the final blow to a category of workers that is already suffering from precariousness.

The situation is less challenging in case of AI assisted works. In this case, AI is a tool used according to the free choices of an author. The machine can make proposals, but the author makes the decisions. In the audiovisual sector, AI tools have been used for years to improve visual effects and streamline post-production processes, enhancing the visual experience of the audience. Human intervention and direction are always needed.

### 3. Can AI generated products be considered "originals", and if so, what are the consequences? What is artistic integrity in relation to AI use?

Considering AI generated products as originals is the wrong approach for two main reasons.

Firstly, AI generated products are based on copyright-protected works that have been used as 'training data' without permission from rightsholders. There is ample litigation in the US about the controversial way AI companies are making their profits, and litigation is advancing in the EU as well<sup>1</sup>. It is impossible, therefore, to consider AI generated products as originals in principle when they are only the sum of the parts taken from all the human works which have been used without

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<sup>1</sup> A visual representation of the high amount of cases against AI companies or concerning AI issues has been [compiled](#) recently.

authorisation, paired with statistical calculations. This fact alone should already rule out any recognition of originality of AI generated products.

Secondly, considering AI-generated products as original would require changing most copyright laws that reserve copyright protection to works created by humans. Eligibility for copyright protection should continue to rely on the originality and the creative choices of human beings.

Any attempt to change this approach and to provide copyright protection to AI generated production without any human authorship would deprive creators of their incentive to create and would deviate undue protection to AI developers/companies or users.

#### **4. Which measures have been taken to protect human creativity from threats posed by AI? What measure(s) would best achieve this aim?**

From our perspective, that is mostly a European one, we have not observed any meaningful attempts to protect human creativity in the age of AI. On the contrary, it seems that the EU Commission is prioritising innovation against copyright protection, sympathising with AI companies under the guise of competitiveness aims, disregarding the negative effects this may have on the cultural and creative sectors.

The impact of generative AI on audiovisual authors' revenues has been measured by a [study commissioned by CISAC](#). The study, which focuses both on the music and audiovisual sectors, has shown that the use of generative AI is going to increase the revenues of the AI industry while reducing those of both sectors subject of the study. More specifically for the audiovisual authors, **CISAC has estimated a 21% revenue loss from now to 2028**, while the market for AI-generated content will increase from EUR 3 billion to EUR 64 billion in the same time span.

The numbers shown in the study are already worrisome and depict a reality where the value of works is only decreasing, while the earnings of the AI industry is only increasing. This tendency is merely a numerical representation of what the CMOs and their umbrella organisations – such as the SAA – have been warning about especially following the enactment of [Regulation \(EU\) 2024/1689](#) (AI Act) in the EU, which has expanded the text-and-data (TDM) exception to AI.<sup>2</sup>

#### **7. How do laws protect the rights of artists and other creators regarding content used by AI? What are the rights of authors in AI generated creation? Please provide examples.**

In theory, copyright should already protect and remunerate audiovisual authors when their works are used for AI purposes. In fact, the authors have the right for their works to be protected against unauthorised reproduction and the right to receive a remuneration that is appropriate and proportionate to the use of their works. However, AI companies have used and are using protected works without permission, trying to rewrite copyright protection. They are claiming that their use is fair use, in the case of the US, and have been granted the TDM exception in the EU, which has extended art. 4(3) of [Directive \(EU\) 2019/790](#) (DSM Directive) to AI via the AI Act<sup>3</sup>, meaning that their activities, even if for commercial purposes, are excused.

Again, in theory, if one follows art. 4(3) DSM Directive, then the rightsholders may opt-out, i.e., they can reserve their rights, declaring that they do not want their works to be used by AI. While this measure has been created to regain control of their works, rightsholders have been unable to benefit

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<sup>2</sup> More on this in the reply to Q7.

<sup>3</sup> A much-discussed [article by Tim W. Dornis](#) argues that this extension is questionable as, in technological terms, the activity behind AI is different from the one behind TDM.

from this mechanism, as AI companies do not want to enter into licensing agreements nor are transparent about the copyright-protected works used for training.

This has led to a total lack of communication between AI companies and rightsholders, where rightsholders' request to negotiate and discuss are ignored, and every day there is more news about unauthorised use of protected works, even by harvesting from pirated websites<sup>4</sup>.

To stop this trend that is impoverishing the creative sector, remuneration to authors for works used in the context of AI should be ensured. Legislators, at national, European and international levels, should ensure that authors are remunerated for the use AI companies do of their works by reaffirming the principles of authorisation, remuneration and transparency, and introducing collective licensing mechanisms. CMOs are best placed to handle the ample repertoire that is needed by AI companies to train and develop their AI models and systems and represent a single point of contact that is able to drastically reduce the cost of multiple individual licences<sup>5</sup>.

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<sup>4</sup> As reported by [some news outlets](#), Meta has used shadow libraries to train its Llama AI models.

<sup>5</sup> On this point, see for instance the [Expert Seminar on Artificial Intelligence](#) organised by the SAA.